

## 1 HOUSE BILL NO. 44

2 INTRODUCED BY DEVANEY

3 BY REQUEST OF THE DEPARTMENT OF CORRECTIONS

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING THE FINANCIAL TRANSACTIONS OF CORRECTIONAL  
6 FACILITY INMATES; AND PROVIDING FOR DISCLOSURE OF INMATES' ASSETS AND MONITORING OF  
7 THEIR BANK ACCOUNTS."

8

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10

11 NEW SECTION. **Section 1. Limits on inmate financial transactions.** A correctional facility inmate  
12 is prohibited from making a financial transaction with any person except through a prison inmate trust  
13 account administered by the department of corrections. An inmate may not send or receive money in  
14 excess of \$100 aggregate a month through the account. Money entering the account in excess of \$100  
15 in any month is subject to forfeiture to the department, which may use forfeited money to pay restitution  
16 and incarceration costs. The department may charge an inmate a minimum fee, not to exceed \$2, for each  
17 account transaction.

18

19 NEW SECTION. **Section 2. Inmate asset disclosure and bank account monitoring.** (1) Each  
20 correctional facility inmate shall disclose in writing all of the inmate's assets to the department of  
21 corrections and affirm under oath that the disclosure is accurate and complete. Failure to do so is an  
22 offense under 45-7-302.

23 (2) Each correctional facility inmate shall sign a release authorizing the department to monitor any  
24 bank account held by the inmate. Failure to do so is an offense under 45-7-302.

25

26 NEW SECTION. **Section 3. Codification instruction.** [Sections 1 and 2] are intended to be codified  
27 as an integral part of Title 53, chapter 1, part 1.

28

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0044, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

A bill for an act limiting the financial transactions of correctional facility inmates and providing for disclosure of inmates' assets and monitoring of their bank accounts.

ASSUMPTIONS:

1. This bill would cause a re-write of the Department of Corrections resident account system (RAS) and canteen system. The average contract programming rate from the current BDM term contract is \$63 per hour.
2. RAS will require 440 hours of programming time (\$63 x 440 = \$27,720).
3. Canteen system will require 200 hours of contracted programming time (\$63 x 200 = \$12,600).
4. The Governor's Executive Budget includes 3.00 FTE in fiscal year 1998 and 4.00 FTE in fiscal year 1999 to replace inmate workers in the business office at Montana State Prison and to implement the medical co-pay program. It is assumed that these FTE would also monitor each inmate's account as part of their duties. The additional costs not included in the Executive Budget is \$40,320 of operating expenses for programming time in fiscal year 1998.
5. The department would charge the \$2.00 fee per transaction and deposit the monies into the state general fund.
6. There were 154,799 inmate account transactions in fiscal year 1996. Transactions would be 20% less if this legislation passes and the \$2.00 fee were enacted.
7. Revenue would not be generated until the re-write of the RAS is complete in fiscal year 1999.

FISCAL IMPACT:

Expenditures:

	<u>FY98</u>	<u>FY99</u>
	<u>Difference</u>	<u>Difference</u>
Operating Expenses	40,320	0

Funding:

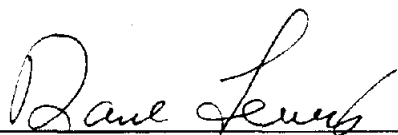
General Fund (01)	40,320	0
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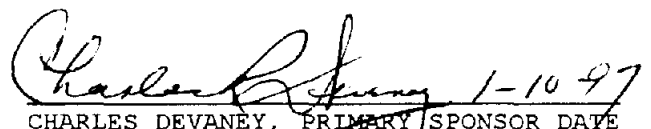
Revenues:

General Fund (01)	\$0	\$247,678
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Net Fiscal Impact:

General Fund (Cost) (01)	(40,320)	247,678
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 1-9-97  
 DAVE LEWIS, BUDGET DIRECTOR      DATE  
 Office of Budget and Program Planning

 1-10-97  
 CHARLES DEVANEY, PRIMARY SPONSOR DATE  
 Fiscal Note for HB0044, as introduced

**HB 44**

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14 excess of \$100 aggregate a month through the account. Money entering the account in excess of \$100  
15 in any month is subject to forfeiture to the department, which may use forfeited money to pay restitution  
16 and incarceration costs. AN INMATE OF THE MONTANA STATE PRISON IN DEER LODGE OR THE  
17 WOMEN'S CORRECTIONAL SYSTEM IN BILLINGS SHALL USE THE PRISON INMATE TRUST ACCOUNT  
18 SYSTEM ADMINISTERED BY THE DEPARTMENT OF CORRECTIONS TO SEND MONEY OUT OF OR  
19 RECEIVE MONEY IN THE FACILITY UNLESS THE DEPARTMENT GRANTS THE INMATE AN EXCEPTION.  
20 IF AN INMATE ACCUMULATES A BALANCE IN EXCESS OF \$200 IN THE INMATE'S PRISON INMATE  
21 TRUST ACCOUNT THE EXCESS MAY, AT THE DEPARTMENT'S DISCRETION, BE FORFEITED FOR THE  
22 PAYMENT OF RESTITUTION OR COSTS OF INCARCERATION. The department may charge an inmate a  
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25 NEW SECTION. Section 2. Inmate asset FINANCIAL disclosure and bank account monitoring. (1)  
26 Each correctional facility inmate shall disclose in writing all of the inmate's assets to the department of  
27 corrections and affirm under oath that the disclosure is accurate and complete. Failure to do so is an  
28 offense under 45-7-302.

29 ~~(2) Each correctional facility inmate shall sign a release authorizing the department to monitor any~~  
30 ~~bank account held by the inmate. Failure to do so is an offense under 45-7-302. UPON INCARCERATION~~

1 AT THE MONTANA STATE PRISON IN DEER LODGE OR THE WOMEN'S CORRECTIONAL SYSTEM IN  
2 BILLINGS, AN INMATE SHALL:

3 (A) MAKE FULL DISCLOSURE OF ALL THE INMATE'S ACCOUNTS IN FINANCIAL INSTITUTIONS  
4 TO THE DEPARTMENT OF CORRECTIONS IN WRITING AND UNDER OATH;

5 (B) SIGN A RELEASE AUTHORIZING ANY FINANCIAL INSTITUTION IN WHICH THE INMATE HAS  
6 AN ACCOUNT OF ANY KIND TO PROVIDE THE DEPARTMENT WITH COPIES OF RECORDS OF ANY  
7 TRANSACTION IN THE ACCOUNT DURING THE INMATE'S TERM OF INCARCERATION IN THE PRISON  
8 OR CORRECTIONAL SYSTEM. RELEASED COPIES OF RECORDS ARE CONFIDENTIAL CRIMINAL JUSTICE  
9 INFORMATION AS DEFINED IN 44-5-103.

10 (C) SIGN A RELEASE AUTHORIZING THE DEPARTMENT TO MONITOR ANY INMATE ACCOUNT  
11 IN A FINANCIAL INSTITUTION.

12 (2) FAILURE OF AN INMATE TO DISCLOSE INFORMATION UNDER SUBSECTION (1)(A) OR SIGN  
13 A RELEASE UNDER SUBSECTION (1)(B) OR (1)(C) IS AN OFFENSE UNDER 45-7-302.

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29 ~~(2) Each correctional facility inmate shall sign a release authorizing the department to monitor any~~  
30 ~~bank account held by the inmate. Failure to do so is an offense under 45-7-302.~~ UPON INCARCERATION

THIRD READING

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7 TRANSACTION IN THE ACCOUNT DURING THE INMATE'S TERM OF INCARCERATION IN THE PRISON  
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10 (C) SIGN A RELEASE AUTHORIZING THE DEPARTMENT TO MONITOR ANY INMATE ACCOUNT  
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22 DEPARTMENT RULES, BE FORFEITED FOR THE PAYMENT OF RESTITUTION OR COSTS OF  
23 INCARCERATION. The department may charge an inmate a minimum fee, not to exceed \$2, for each  
24 account transaction \$1.60 EACH MONTH TO ADMINISTER THE INMATE'S ACCOUNT.

25 (2) (A) MONEY FORFEITED UNDER SUBSECTION (1) TO THE PAYMENT OF RESTITUTION MUST  
26 BE PAID IN THE FOLLOWING ORDER:

27 (I) TO THE VICTIM UNTIL THE VICTIM'S UNREIMBURSED PECUNIARY LOSS IS SATISFIED;

28 (II) TO THE CRIME VICTIMS COMPENSATION AND ASSISTANCE ACCOUNT PROVIDED FOR IN  
29 53-9-109 UNTIL THE ACCOUNT IS FULLY REIMBURSED FOR COMPENSATION TO THE VICTIM;

30 (III) TO ANY OTHER GOVERNMENT AGENCY THAT HAS COMPENSATED THE VICTIM FOR THE

1 VICTIM'S PECUNIARY LOSS;

2 (IV) TO ANY INSURANCE COMPANY THAT HAS COMPENSATED THE VICTIM FOR THE VICTIM'S  
 3 PECUNIARY LOSS.

4 (B) IF THE INMATE'S SENTENCE DID NOT PROVIDE FOR THE PAYMENT OF RESTITUTION OR  
 5 IF THERE IS A BALANCE OF MONEY AFTER RESTITUTION HAS BEEN PAID UNDER SUBSECTION (2)(A),  
 6 MONEY FORFEITED UNDER SUBSECTION (1) MUST BE APPLIED TO THE INMATE'S COSTS OF  
 7 INCARCERATION.

8 (3) THE DEPARTMENT SHALL ADOPT RULES ESTABLISHING CRITERIA FOR FORFEITURE OF  
 9 FUNDS UNDER SUBSECTION (1). THE RULES MUST CONTAIN CLEAR GUIDELINES REGARDING  
 10 FORFEITURE THAT ENSURE RESTITUTION UNDER SUBSECTION (2) BUT THAT:

11 (A) DO NOT UNREASONABLY INHIBIT AN INMATE'S ABILITY TO SAVE MONEY FOR THE  
 12 PURCHASE OF TOOLS OR OTHER ITEMS TO FURTHER THE EDUCATION OF THE INMATE FOR PURPOSES  
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 14 AND

15 (B) DO INHIBIT ANY INMATE'S ABILITY TO DEAL IN CONTRABAND OR ILLEGAL ACTS WITHIN  
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STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0044, reference bill

DESCRIPTION OF PROPOSED LEGISLATION:

A bill for an act limiting the financial transactions of correctional facility inmates and providing for disclosure of inmates' assets and monitoring of their bank accounts.

ASSUMPTIONS:

1. This bill would cause a re-write of the Department of Corrections resident account system (RAS) and canteen system. The average contract programming rate from the current BDM term contract is \$63 per hour.
2. RAS will require 440 hours of programming time (\$63 x 440 = \$27,720).
3. Canteen system will require 200 hours of contracted programming time (\$63 x 200 = \$12,600).
4. The Governor's Executive Budget includes 2.00 FTE in fiscal year 1998 and 3.00 FTE in fiscal year 1999 to replace inmate workers in the business office at Montana State Prison and to implement the medical co-pay program. It is assumed that these FTE would also monitor each inmate's account as part of their duties. The additional costs not included in the Executive Budget is \$40,320 of operating expenses for programming time in fiscal year 1998.
5. The DOC would charge the \$1.60 fee per inmate per month to administer the inmate accounts. Currently there are 1,344 inmates at Montana State Prison and 70 inmates at Women's Correctional Center.
6. Revenue would not be generated until the re-write of the RAS is complete in fiscal year 1999 and would go into a victims compensation fund.

FISCAL IMPACT:

Expenditures:

	<u>FY98</u>	<u>FY99</u>
	<u>Difference</u>	<u>Difference</u>
Operating Expenses	40,320	0

Funding:

General Fund (01)	40,320	0
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Revenues:

Victim Compensation Fund (02)	0	27,149
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Net Fiscal Impact:

General Fund (Cost) (01)	(40,320)	
Victim Compensation Fund (02)		27,149

*Dave Lewis* 3-22-97  
 DAVE LEWIS, BUDGET DIRECTOR DATE  
 Office of Budget and Program Planning

*Charles Devaney* 3-22-97  
 CHARLES DEVANEY, PRIMARY SPONSOR DATE  
 Fiscal Note for HB0044, reference bill

**HB 44 #2**

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0044, reference bill

DESCRIPTION OF PROPOSED LEGISLATION:

A bill for an act limiting the financial transactions of correctional facility inmates and providing for disclosure of inmates' accounts in financial institutions and monitoring of their accounts.

ASSUMPTIONS:

1. This bill would cause a re-write of the Department of Corrections (DOC) resident account system (RAS). The average contract programming rate from current BDM term contract is \$63 per hour.
2. RAS will require 300 hours of programming time (\$63 x 300 = \$18,900).
3. The DOC would charge the \$1.60 fee each month and deposit the monies into the state general fund.
4. There are projected to be 1,350 inmates at Montana State Prison and 80 at Women's Correctional Center each year of the biennium.
5. Revenue would not be generated until the re-write of the RAS is complete in FY99.
6. The DOC is unable to estimate the amount of money that will be collected from inmate accounts and applied to the costs of incarceration.

FISCAL IMPACT:

	<u>FY98</u>	<u>FY99</u>
	<u>Difference</u>	<u>Difference</u>
<u>Expenditures:</u>		
Contracted programming time	18,900	0
<u>Funding:</u>		
General Fund (01)	18,900	0
<u>Revenues:</u>		
General Fund (01)	0	27,456
<u>Net Fiscal Impact:</u>		
General Fund Cost (01)	(18,900)	27,456

*Dave Lewis* 3-27-97  
 DAVE LEWIS, BUDGET DIRECTOR      DATE  
 Office of Budget and Program Planning

*Charles Devaney* 3-28-97  
 CHARLES DEVANEY, PRIMARY SPONSOR      DATE

Fiscal Note for HB0044, reference bill

Am. HB 44 #3

STATE OF MONTANA - FISCAL NOTE

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5. Revenue would not be generated until the re-write of the RAS is complete in FY99.
6. The Department is unable to estimate the amount of money that will be collected from inmate accounts and applied to the costs of incarceration.

FISCAL IMPACT:

Revenues:

General Fund	\$0	\$27,456
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Expenditures:

	<u>FY98</u>	<u>FY99</u>
	<u>Difference</u>	<u>Difference</u>
Contracted programming time	<u>18,900</u>	<u>0</u>
Total	18,900	0
Total General Fund	18,900	0

Net Fiscal Impact:

General Fund (Cost)	(18,900)	27,456
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 DAVE LEWIS, BUDGET DIRECTOR      DATE  
 Office of Budget and Program Planning

\_\_\_\_\_  
 CHARLES DEVANEY, PRIMARY SPONSOR DATE  
 Fiscal Note for HB0044, reference bill

HB 44 #4